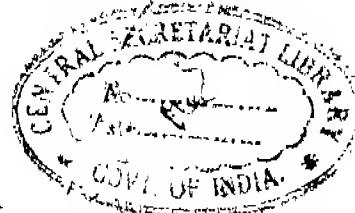




भारत का राजपत्र

The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 20th December, 1996:—

I

BILL No. XXXVIII OF 1996

A Bill to provide for employment and resources for self employment to all adult citizens for eradication of unemployment from the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Eradication of Unemployment Act, 1996.

Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Government" means the Central Government;

(b) "Prescribed" means prescribed by rules made under this Act;

(c) "State" includes the Central Government, State Government, Union Territory, Administration and all local or other authorities under the control of the Central or State Government.

Employment to adult citizens.

3. The State shall endeavour to provide every adult citizen with employment suited to his age, qualification and strength within a time frame after the commencement of this Act.

Financial assistance to unemployed citizens.

4. The Government shall grant monthly unemployment allowance to every unemployed citizen as such, as may be prescribed, till such time he is provided with employment under section 3 of this Act.

Facilities for self employment.

5. The State shall provide loans from Treasuries, Banks and other financial institutions on easy terms and minimum interest to the unemployed citizens alongwith other facilities required for the purpose of self employment.

Employees not to involve in any other activities.

6. (1) No citizen shall after he secured a job involve himself in any activity other than his employment resulting in financial or other gains.

(2) Any person violating the provisions of sub-section (1) shall be dismissed from service with immediate effect.

Periodical promotions to employees.

7. It shall be obligatory on the part of the State to ensure periodical promotions to all employees on the basis of tests or their performance.

Power to make rules.

8. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The problem of galloping unemployment in our country has assumed menacing proportions and has become a major and explosive national problem of the day. Even the educated citizens right from Matriculates to Post-graduates and even Engineers, Doctors and Other Professionals become indigent. Lack of opportunities of employment in the country is also leading to brain drain, and exodus of a large number of skilled and unskilled persons abroad. But the problem is not merely confined to brain drain but it is becoming the major cause of unrest among the youth and to a great extent becoming a law and order problem for the State because when the youth remains unemployed he is easily lured by the anti-social and anti-national forces such as smugglers, drug traffickers, and terrorists. In that eventuality instead of working for building the nation the youth joins the forces aiming at destabilising the nation which is a matter of worry for all nationalist and peace loving people of our country. Unemployment is one of the major causes for the present day state of affairs in the troubled States of Punjab, Jammu and Kashmir, Assam and other North Eastern States of the country where the youth is opting for guns in the absence of employment. In the rural areas generally the uneducated and less educated youth is engaged as agricultural worker and daily wage earner but he too does not get work for the whole year. As a result more and more youngmen are joining the Naxal movement or *Senas* coming up on communal and caste lines in rural India and extremists who are working for the dis-integration of the country.

Thus eradication of unemployment should be the first priority of the State today. Though there is acute shortage of resources but to ignore the burning problem of unemployment under this pretext will prove to be suicidal to the country. Therefore, it is time that concerted efforts are made by the State to ensure employment to the citizens of the country and also to provide maximum facilities for getting self employment to more and more unemployed youth so that they contribute to nation building. In rural areas, schemes have to be implemented in such a way that work is available throughout the year to the rural youth.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for employment to all adult citizens by the State. Clause 4 provides for unemployment allowance for unemployment. Clause 5 provides for facilities for self employment. If enacted, the Bill will involve expenditure from the consolidated Fund of India to the tune of rupees one thousand crores as recurring expenditure per annum.

A non-recurring expenditure of rupees one hundred crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The delegation of legislative power will relate to matters of details only. The delegation of legislative power is, therefore, is of normal character.

II**BILL No. XXXIX of 1996**

A Bill to provide for the welfare of children and matters connected therewith.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| 1. (1) This Act may be called the Child Welfare Act, 1996. | Short title and extent. |
| (2) It extends to the whole of India. | |
| 2. For the purposes of this Act, “child” means any person who has not attained the age of fifteen years. | Definition. |
| 3. Notwithstanding anything contained in any other law for the time being in force no child shall be employed to work in any place of employment. | Prohibition on employment of children |
| 4. (1) The Central Government shall, after due appropriation made by Parliament in this behalf, establish one or more Children Homes in every district of the country for the custody, care and protection of children. | Children Homes. |

(2) Any child, who is found—

- (a) abandoned;
- (b) begging;
- (c) disabled or destitute and neglected;
- (d) an orphan;

shall be sent to a Children Home immediately.

Facilities to children.

5. A child sent to a Children Home shall be provided with free,—

- (a) shelter, food and clothing;
- (b) education including higher and technical education;
- (c) medical aid; and
- (d) such other facilities as may be necessary for his proper development and welfare.

Reservation of Jobs.

6. The Central Government shall reserve posts for the Children referred to in section 5 in all Government services, as may be prescribed, after they have attained the age of eighteen years.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after forty-nine years of independence, a large number of children are forced to work by their parents/guardians for day to day living. A good percentage amongst them are found working in factories, private firms and for domestic purposes. They do not get nourishment and food and suffer from ailments and die prematurely. Also, in a number of families, children are forced to beg. Some of those children may be talented but due to lack of facilities and opportunities their talents are not utilised for their own welfare or for the welfare of the country. Children are the future of the country. It is the responsibility of the Government to ensure that children are given opportunities and facilities to develop in a healthy manner and they should also be protected from all kinds of exploitation.

It is, therefore, necessary that legislation for the welfare and protection of children be enacted.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that all children who are illegitimate, beggars, etc. shall be sent to the Children Homes to be established by the Central Government in every district. Clause 5 provides for free education including higher and technical education, and medical facilities to children by the Central Government. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees five lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of details only as such the delegation of legislative power is of a normal character.

III**BILL NO. LIII OF 1996**

A Bill to regulate the public interest litigations and to make it mandatory for the courts to entertain such litigations on the basis of locus standi alone and to provide for deterrent punishment in case petitioners failed to prove the charges levelled in such petitions and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Interest Litigations (Regulation) Act, 1996.
- (2) It extends to the whole of India.

Short title and extent.

2. In this Act, unless the context otherwise requires—

Definition.

(a) "court" means any court of law in India including the Supreme Court and the High Courts;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "public interest litigation" means any case arising out of a written petition submitted to any court personally or through his counsel or by post by a petitioner narrating a public or personal grievance having his *locus standi* thereon for seeking relief.

3. (1) Any citizen may submit a written petition, with or without court fee, either personally or through his counsel or by post to any court narrating a public or personal

Public interest litigation.

grievance in which he has a *locus standi*, directly or indirectly for seeking relief from such court.

(2) On receiving a petition under sub-section (1) the court before entertaining such a petition shall make it sure that,—

- (a) the petitioner is a citizen of India;
- (b) the subject matter of the petition is within its jurisdiction;
- (c) the petitioner has a *locus standi* in the matter; and
- (d) the petition raises a substantive issue in which intervention of the court is necessary.

(3) If the court finds that the petition fulfils the preconditions of sub-section (2), it shall order the registration of the petition as a public interest litigation in such manner as may be prescribed.

4. After the registration of public interest litigation under section 3 the Court shall summon the petitioner for examining his prayer:

Provided that in case petitioner is unable to come before the court due to his poverty or physical inability, the court shall appoint a Commissioner to examine the petitioner at the place of his residence:

Provided further that the court may also direct the Commissioner to examine:—

(a) whether the petitioner has filed the public interest litigation on his own or at the behest of someone else who may be seeking revenge or having vested interest through such litigation;

(b) whether the petitioner is blackmailing or extorting money by such public interest litigation from the person or an establishment against whom such a litigation has been initiated;

(c) whether the petitioner is really interested in getting the relief or his real intention is to defame and damage the reputation and image of the person or an establishment against whom the litigation has been initiated.

5. The court, after receiving and vetting the report of the Commissioner and making such inquiry as it deems fit, may, on the merit of the litigation, either order that the public interest litigation be retained for adjudication or dismissed *ab-initio* by assigning reasons therefor.

6. If the public interest litigation is retained by the court under section 5, the court on being satisfied with poor financial status or inability of the petitioner shall recommend the case to the Central or State Government, as the case may be, to provide free legal assistance to the petitioner under the Legal Services Authorities Act, 1987.

.37 of 1987.

**Retention or
dismissal of
public interest
litigation.**

**Free legal aid
to deserving pe-
titioners.**

**Penalty for
abuse of pro-
cess of Govt.**

**Overriding
effect.**

**Power to make
rules.**

7. Notwithstanding anything contained in any other law for the time being in force, any petitioner who is found guilty of abuse of process of court by filing a frivolous public interest litigation under this Act or filing a petition with the malicious intention of defaming or black-mailing or extorting money in cash or kind from the respondent shall be liable for rigorous imprisonment which shall not be less than five years but which may extend to ten years and with fine which may extend to five lakh rupees.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

9. The Supreme Court may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Few years back, the Supreme Court of India started admitting and entertaining even letters of citizens as writ petitions and granting reliefs on issues of public importance. Taking the cue from the Supreme Court, people have now started writing letters to Supreme Court and High Courts in abundance and many a Non-Governmental Organisations and legal firms have started filing large number of public interest litigations in these courts and such cases are making news across the country.

No doubt the objective of the public interest litigation as formulated by the Supreme Court is laudable particularly for the poorer sections of the society but unfortunately this category of litigation is now being misused to the extent possible in our country. It may be a coincidence that some advocates and legal firms who were perhaps not getting enough clients have now become famous for filing public interest litigations in a big way pretending as if they are the messiahs of honesty. By doing so they get free publicity. They become known legal practitioners overnight and moreover they get a tool to extort money and blackmail their targets and that too when they have no *locus standi* in the matter.

In fact, public interest litigation has incidentally become *modus operandi* to harass the people. Now a days, industries are the targets of public interest litigation for pollution but before filing such a petition every effort is made to bring the targeted industrialist to terms. As such in the guise of public interest litigations unscrupulous people, law firms and NGOs are minting money and blackmailing the entrepreneurs and respected citizens.

Moreover, the public interest litigation cases are generally given priority thereby ignoring the cases which remain pending for years together in the courts in many cases decades together. As such public interest litigation cases are entertained on priority disregarding the established rules of procedure in the judiciary.

As such, the public interest litigation system which is otherwise laudable has to be regulated and definite procedure has to be laid down for this purpose. The petitioner must prove his *locus standi* in such cases. He must prove that he is personally being affected. If his petition fails or if is malafide he must be put behind the bars and pay the damages. His intentions in filing such a case must be probed thoroughly to find out his real motives. If his case is proved to be genuine, he must be given every help he deserves, otherwise he must pay heavy price for his malafide intentions.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 4 of the Bill authorises the court to appoint Commissioner. Clause 6 provides for free legal aid to deserving cases. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India which can not be estimated at this stage. However, it may involve a sum of rupees fifty lakhs per annum as recurring expenditure.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Supreme Court of India to formulate rules for carrying out the purposes of the Bill which will relate to matters of procedure and administrative details only.

The delegation of legislative power is, therefore, of normal character.

IV**BILL NO. LI OF 1996**

A Bill further to amend the Hindu Marriage Act, 1955

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <p>25 of 1955.</p> <p>1. This Act may be called the Hindu Marriage (Amendment) Act, 1996.</p> <p>2. In section 5 of the Hindu Marriage Act, 1955 (hereinafter referred to as the Principal Act), in clause (ii), in sub-clause (c), the words "or epilepsy" shall be omitted.</p> <p>3. In section 13 of the Principal Act, in sub-section (1), clause (iv) shall be omitted.</p> | <p>Short title.</p> <p>Amendment of section 5.</p> <p>Amendment of section 13.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

STATEMENT OF OBJECTS AND REASONS

Section 5 (ii) (c) of the Hindu Marriage Act, 1955, provides that at the time of marriage, neither party should be subject to recurrent attacks of epilepsy. The epilepsy is curable and should no more be any ground for disqualification in marriage.

Section 13 of the Hindu Marriage Act, 1955 provides that a marriage can be dissolved by a decree of divorce on the ground that one of the party is suffering from a virulent and incurable form of leprosy.

By the latest research, scientists have proved that modern science can cure epilepsy and leprosy patients. The epilepsy and leprosy patients can not only be cured but can lead a happy normal married life also. The provisions in sections 3 and 13, however are clogs in the improvement of lots of epilepsy and leprosy victims. Therefore these sections have to be omitted.

The Bill seeks to achieve the above objectives

DR. Y. LAKSHMI PRASAD

V

BILL NO. LII OF 1996

A Bill to provide for the development and protection of Bikaneri Bhujia, papad and such other traditional food products familiar in a specific region or place from the onslaught and being taken over by multinational foreign companies and other larger companies operating in India by forbidding such companies to produce or market such products in or from the Indian markets and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Bikaneri Bhujia, Papad and Other Traditional Food Products (Protection From Multinationals and Heavy Industrial Companies) Act, 1996.

Short title
and extent.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government.
- (b) "foreign companies or multinationals" means a foreign company as defined under section 591 of the Companies Act, 1956 and sub-section (e)(iii) of section 2 of the Foreign Contribution (Regulation) Act, 1976 and includes all the foreign multinationals operating in India with or without registering them under the Company law for the time being in force;
- (c) "heavy industrial companies" means those heavy industrial companies which are governed by the Companies Act, 1956;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "traditional food product" means those food products which are produced according to long established methods or traditions of preparing such food products in a particular region or part of the country.

1 of 1956.

49 of 1976.

1 of 1956.

Prohibition of production of traditional food products by multinationals and heavy Industrial Companies.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the production of *Bikaneri Bhujia, papad* and such other traditional food products which are familiar in a specific area or region within the country, by multinationals and heavy industrial companies is hereby prohibited.

(2) Any contravention of the provisions of sub-section (1) shall be an offence under this Act.

Prohibition of sale, distribution and supply of traditional food products by multinationals and heavy industrial companies.

4. Notwithstanding anything contained in any other law or the policy of the Central Government, for the time being in force, the marketing, supply, distribution and sale of *Bikaneri Bhujia, papad* and such other traditional food products by multinationals and heavy industrial companies is hereby prohibited and any contravention thereof shall be an offence under this Act.

Penalty.

5. Whoever contravenes the provisions of sections 3 and 4 of this Act shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.

Offences to be cognisable under the Act.

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act and the rules made thereunder shall be cognisable.

2 of 1974.

Power to enter search, seize and arrest without warrant and investigate offences.

7. Any officer of the Government or police authorised in this behalf by the appropriate Government, by general or special order, who has reason to believe, from personal knowledge or from information given by any person, that an offence has been committed or any food product, specified under this Act, is kept or concealed in any premises or is being transported by any multinational company in any vehicle, vessel or aircraft to any place or is in transit, may,—

- (a) enter at any time during the day or night into any such premises or vehicle, vessel or aircraft;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such food products and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act; and
- (d) detain and search any person whom he has reason to believe to be guilty of an offence punishable under this Act.

8. If the person committing an offence under this Act is a multinational or other domestic company, every person who, at the time the contravention was committed, was in charge of and was responsible to the multinational company or the domestic company, as the case may be, for the conduct of its business, as well as the multinational company or domestic company, as the case may be, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Offences by
multinational
and other com-
panies.

9. Nothing in this Act or in the rules made thereunder shall affect the validity of a State Act for the time being in force or of any rule, regulation or order made thereunder which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by or under this Act.

Saving of local
and special
laws.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force applicable to the subject matter of this Act.

Overriding
effect of Act.

11. The Central Government may, in consultation with the Government of the States, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Bikaner is a famous part of the State of Rajasthan. Apart from valour, desert and historical places of tourist importance, it is famous for its *Bikaneri Bhujia* and *papad*. More than three hundred small scale units are engaged in *Bhujia* business in this region and nearly a lakh people earn their livelihood directly or indirectly from this business. The speciality of preparing *Bhujia* has popularised the *Bikaneri Bhujia* in all parts of the country. The *papad* made in Bikaner are equally popular in the Country. Thousands of housewives in the region earn their livelihood from making *papads*. Apart from this thousands of farmers have identified themselves for producing the raw material for *Bikaneri Bhujia* and *papad*. *Moth* and *Saaji* are two local products which are used in preparing *Bikaneri Bhujia* and *papad* and most of the local farmers are producing these two crops in a big way despite the fact that this region is drought prone. Every three years out of five years are affected by droughts and the income earned from the sale of *Moth* and *Saaji* is their source of survival during the drought. The magnitude of the *Bikaneri Bhujia* business can be gauged from the fact that nearly twenty tonnes of *Bhujia* is prepared everyday in the Bikaner region and sent to all over the Country.

Similarly some other regions are also famous for their eatables. For instance *Petha* and *Daalbiji* of Agra, *Pedas* of Mathura and *Rasgollas* of Bengal. All these eatables are made locally in these areas and mostly by small scale entrepreneurs and lakhs of local people earn their livelihood therefrom.

However, clouds of dangers are hovering over this traditional foodproducts market with the entry of multinationals and big industrial houses in this business. Attracted by the popularity of *Bikaneri Bhujia* in the country, PEPSI Co. a multinational company has started selling *Bikaneri Bhujia* under the brand name "Lehar" which has sent shockwaves amongst the traditional business of this popular eatable. It is feared that with vast resources at its command Pepsi will wipe out all the competitors and will monopolise this trade. Since the Pepsi is attempting to get a trade mark for its products, it will throw the traditional manufacturers out of business. Therefore, in order to save the traditional *Bhujia* manufacturers of Bikaner, the Chief Minister of Rajasthan had appealed to Prime Minister and Parliament to prevent the multinationals from entering this traditional business.

Though our country is following liberalisation, it is our duty to save our traditional business from the onslaught of multinationals and big industrial houses as is being done in other countries to save their small scale units and traditional business. Otherwise lakhs of traditional workers and entrepreneurs will perish under the onslaught of these multinationals who will dominate trade after trade and region after region and finish our traditional *karigars*. Thus we have to prevent the multinationals and big industrial houses from entering in our traditional small scale food sector.

Hence this Bill.

RAMDAS AGARWAL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI**BILL No. XLVIII OF 1996**

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996.
2. In the Eighth Schedule to the Constitution existing entries 14 to 18 shall be renumbered as entries 15 to 19 respectively and before entry 15 as so re-numbered the following entry shall be inserted, namely:—

“14. Rajasthani.”

Short title.

Amendment of
the Eighth
Schedule.

STATEMENT OF OBJECTS AND REASONS

The Rajasthani language has a rich heritage and it is spoken by crores of people not only in Rajasthan but throughout the country because of the migration of its workforce in the country and the presence of its business community throughout the country. A good number of books have been written in Rajasthani language and feature films in Rajasthani have become very popular in the country. A variety of literature is also published and is available in this language. But this language is not being developed at the national level by the Government. The main reasons of the neglect of this rich language is that it has not been included in the Eighth Schedule of the Constitution. Hence in order to develop this language its inclusion in the Eighth Schedule has become all the more necessary.

Hence this Bill.

RAMDAS AGARWAL

VII**BILL NO. LVIII OF 1996**

A Bill to provide for the compulsory insurance of crops in the cultivable land situated in desert areas in Rajasthan and Gujarat and drought prone areas of the country scattered in the States of Andhra Pradesh, Bihar, Maharashtra, Madhya Pradesh, Orissa etc. in order to protect the interests of the farmers of such areas against loss of crops suffered in natural calamities and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

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|---------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1. (1) This Act may be called the Compulsory Crop Insurance Scheme for the Desert and Drought Prone Areas Act, 1996. | Short title and extent. |
| (2) It extends to the whole of India. | |
| 2. In this Act, unless the context otherwise requires,— | Definitions. |
| (a) “appropriate Government” means in the case of a State the Government of that State and in all other cases the Central Government; | |

(b) "crop" includes wheat, gram, paddy, bajra, barley, millet, corn, potato, soyabean, sunflower, groundnut, sugarcane, onion, cotton, tobacco and all types of cereals and pulses and orchards of fruits and such other agricultural produce as may be notified by the appropriate Government from time to time in the Official Gazette;

(c) "desert area" means agricultural land with very little water and the clay of which is mixed with huge quantity of sand;

(d) "drought area" means the areas which face continuous dry weather without hope of rains and there is not enough ground water for the need of the people and for irrigation purposes;

(e) "natural calamity" includes drought, flood, hailstorm, duststorm, earthquake and such other natural happenings which affect the crops and the agricultural land;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheme" means comprehensive crop insurance scheme framed by the appropriate Government under Section 3.

Formulation of compulsory crop insurance scheme for the desert and drought prone areas.

3. (1) The Central Government shall, in consultation with the concerned State Governments, formulate a comprehensive crop insurance scheme to be called as "Crop Insurance Scheme" (hereinafter referred to as "Scheme") for compulsory insurance of crops in the desert areas and drought prone areas of the country against natural calamities to compensate the farmers for the loss of crops caused by such calamity.

(2) The scheme referred to in sub-section (1) shall *inter alia* provide for,—

(a) the terms and conditions for the compulsory crop insurance;

(b) the extent to which the loss caused by natural calamities may be covered;

(c) the rate of premium to be paid by farmers and the contribution to be made by the appropriate Government :

Provided that the farmers belonging to Scheduled Castes, Scheduled Tribes and other Backward Classes and the small and marginal farmers shall be exempted from paying the premium prescribed under this Act and such premium shall be borne by the Central Government.

(d) such other matters which the Central Government may deem necessary or proposed by the concerned State Government.

4. The Central Government shall, in consultation with the concerned State Governments by notification in the Official Gazette, establish a Crop Insurance Fund, consisting of,—

(a) contribution of farmers as premiums for crop insurance;

(b) grants made by Central Government after due appropriation made by Parliament in this behalf from time to time to the fund;

(c) grants given to the fund by the Governments of the States;

(d) donations received from the corporate sectors and individuals for the purposes of this Act; and

(e) any income from the investments of the amounts of the fund.

Central Government to administer the Scheme.

5. Notwithstanding anything in this act, the Scheme formulated in pursuance of this Act shall be administered by the Central Government with the active assistance of the State Governments.

6. (1) The appropriate Government shall, by notification in the Official Gazette, constitute a team of experts in every district affected by natural calamity to assess the losses suffered by the farmers due to such calamity in such manner as may be prescribed.

(2) The team of experts referred to in sub-section (1) shall submit its report to the appropriate Government in such manner as may be prescribed.

(3) The appropriate Government shall forward the report to the Central Government with its recommendations thereon.

(4) The Central Government shall pay the insurance amount to every farmer according to the loss suffered by him and assessment made by the team of experts due to the natural calamity in such manner as may be prescribed.

(5) The insurance amount under sub-section (4) shall be paid from the Fund established under section 4.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Procedure to assess the losses due to natural calamities and payment of insurance amount.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

More than eighty percent of our country's population lives in villages and is dependent on agriculture whereas the agriculture is dependent on monsoon rains. If there is good monsoon rains the yield of the harvest is good but if the monsoon fails the yield is also lost. But so far as monsoon is concerned it is always uncertain. Droughts and floods are very frequent which destroy the crops. Similarly there are other natural calamities such as hailstorms, duststorms, cyclones etc. which destroy the crops of the farmer. The farmer is totally dependent on his crop for all of his needs. His hopes are totally dependent on the good yield of his crops. If the crop is lost, for him everything is lost.

The condition of farmers in the desert States like Rajasthan and Gujarat and other drought prone areas in the country particularly in Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Orissa etc. is very pathetic. They lose their crops very frequently as such they always remain hand to mouth and sometimes they become the victims of starvation.

In such a grim situation a comprehensive and compulsory crop insurance scheme is urgently needed for the desert areas and drought prone areas of the country who frequently become the victims of natural calamity to minimise the agonies of the farmers of these areas. Though crop insurance scheme has been initiated in some States on experimental basis but that is neither comprehensive nor compulsory. An attempt has been made in this Bill to plug the loopholes and provide the desired relief to the farmers.

Hence this Bill.

RAMDAS AGARWAL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a crop insurance fund. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that it is likely to involve three hundred crores rupees per annum as recurring expenditure.

It may also involve a non-recurring expenditure of about three crores of rupee from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

VIII**BILL NO. LVII OF 1996**

A Bill to declare the Bharat Itihas Samshodhak Mandal, at Pune, to be an institution of national importance and to provide for its administration and certain other matters therewith connected therewith.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Bharat Itihas Samshodhak Mandal Act, 1996.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that the Bharat Itihas Samshodhak Mandal at pune in the State of Maharashtra is an institution of national importace.

Declaration
of Bharat
Itihas
Samshodhak
Mandal, as an
institution of
national
importance.

Definitions.

3. In This Act, unless the context otherwise requires,—

(a) "Board" means the Board established under section 4(1);

(b) "chairman" means the Chairman of the board'

(c) "constitution" means constitution of the Bharat Itihas Samshodhak Mandal, Pune P.T. No. F. 105-Pune, adopted in 1955 and as on the record of the Joint Charity Commissioner, Pune, Region, Pune;

(d) "fund" means fund referred to in section 19;

(e) "history" means history of human activity in all spheres of human life such as politics, economics, social and cultural life, language, literature, science, technology, art; studies in environment and all such items mentioned in section 6(a);

(f) "Mandal" means Bharat Itihas Samshodhak Mandal, Pune" declared as an institution of national importance;

(g) "Members" means a member of the Board;

(h) "objects" means aims and objects as specified in section 6.

(i) "prescribed" means prescribed by rules made under this Act;

(j) "State Government" means the Government of Maharashtra.

CHAPTER II

THE BHARAT ITIHAS SAMSHODHAK MANDAL BOARD

Composition
and Establish-
ment of the
Board.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purpose of this Act, a Board to be known as the Bharat Itihas Samshodhak Mandal Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of the act, to acquire, hold and dispose of property and contract except the research materials in the possession of the Mandal and may by that name, sue and be sued.

(3) The Board shall consist of the following persons, namely:—

(a) the Governor of Maharashtra-*ex-officio*, Chairman;

(b) the Accountant General, Maharashtra-*ex-officio*;

(c) a person, to be nominated by the Central Government, who shall be a life member of the erstwhile Bharat Itihas Samshodhak Mandal Public Trust, Pune;

(d) eight persons, four each to be nominated by the Central Government and the State Government, who shall be persons of recognized research standing with published scholarly works on aspects of Indian and Deccan history, art, languages, literature, or culture in general;

(e) the Director, Bharat Itihas Samshodhak Mandal *ex-officio*, member-secretary:

Provided that the nominations, under this section, shall take effect as soon as it is notified by the Central Government in the Official Gazette.

Term of office
of members
and fresh
nominations
to the Board.

5. (1) The terms of office and other conditions of service of nominated members specified in clauses (c) and (d) of sub-section (3) of section 4 shall be such as may be prescribed.

(2) Any nominated member may resign his office by giving notice in writing to the Central Government and to the State Government and such resignations, on being notified by the Central Government in the Official Gazette, shall be deemed to have vacated his office.

(3) A casual vacancy, created by the resignation of a nominated member under sub-section (2) or for any other reason, may be filled by fresh nomination by the Central Government or the State Government, as the case may be, and a member so nominated shall hold office for

the remaining period for which the member in whose place he is nominated would have, otherwise, held the office:

Provided that an outgoing member shall be eligible for renomination.

(4) If any nominated member is, by infirmity or otherwise, rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his office, the Central Government or the State Government, as the case may be, may nominate another person to act in his place during his absence.

6. The objectives of the Board shall be—

(a) to collect and conserve all such materials like documents, bakhars, kaifiyats, inscriptions, old manuscripts, all sorts of literary works, objects of art, coins, copper-plates, sculptures, paintings and any other objects that have a bearing on the History of India, and are of Historical Importance in General.

(b) to erect buildings for proper conservation of objects so collected, to exhibit them and to house other activities of the 'Mandal'.

(c) to undertake publication of materials thus collected and to publish such monographs and books that would further the aim of historical research regarding India.

(d) to undertake research on Indian History through means found suitable and necessary by the 'Mandal' and also to encourage critical studies and teaching of History.

7. No act or proceeding of the Board shall be invalid merely by reasons of—

(a) any vacancy in, or defect in the constitution of, the Board; or

(b) any defect in the nomination of a person acting as a member thereof, or of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Aims and objects.

Vacancies, etc.,
not to invalidate the acts of
the Board.

Duty of the
Government
nominated
persons.

8. (1) Before nominating a person to be a member of the Board, the Central Government or the State Government, as the case may be, shall satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government or the State Government, as the case may be, shall also satisfy itself from time to time with respect to every member nominated by it, that he has no such interest; and any person to whom the Central Government or the State Government, as the case may be, proposes to nominate and who has consented to be a member, shall, whenever requested by the Central Government or the State Government so to do, furnish to it such information as that Government considers necessary for the performance by it of its duties under this sub-section.

(2) A nominated member who is, in any way, directly or indirectly interested in a contract made or proposed to be made by the Board shall, as soon as possible, after relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take any part after the disclosure in any deliberation or decision of the Board with respect to that contract.

9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act.

Meetings of
the Board.

(2) The Chairman or, in his absence, any member, chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any nominated member, being an officer of Government, is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise any person in writing to do so.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote.

10. (1) The Board may associate with itself, in such manner and for such reasons as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person, associated with it by the Board under sub-section (1) for any specific purpose, shall have the right to take part in the discussions of the Board relating to that purpose, but shall not, by virtue of this section, be entitled to vote.

11. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

12. (1) Subject to the provisions of sub-section (2), the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may think fit.

(2) The recruitment and conditions of service of such officers and employees shall be such as may be provided by regulations made under this Act.

13. Subject to the provisions of this Act, every person employed in the Mandal immediately before the date of establishment of the Board shall, on and from such date, become an employee of the Board with such designation as the Board may determine and shall hold his office or service therein for the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Board;

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

14. The Mandal shall be located at Pune.

CHAPTER III

PROPERTY, LIABILITIES AND FUNCTIONS OF THE BOARD

15. (1) On the establishment of the Board,—

(a) all properties, funds and dues which are vested in or realisable by the trustees of the Mandal constituted by the Constitution in their capacity as such, shall vest in and be realisable by the Board; and

(b) all liabilities in relation to the Mandal which are enforceable against the said trustees, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the Mandal or acquired by the Board shall vest in the Board.

16. (1) Subject to the objectives mentioned in section 6, it shall be the duty of the Board to manage the Mandal, to acquire resource-research materials, to conserve them, to make them available to bona fide research scholars, subject to regulations made by the Board in that regard, to plan, promote and organise research projects, seminars etc. in the field of history, to arrange for publication of research papers, books, journals etc. and to perform such other functions as the Central Government may, from time to time, assign to the Board.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Board may take such steps as it thinks fit,—

(a) to provide for instruction and research in matters relating to History and for

Temporary association of persons with the Board for particular purposes.

Authentication of orders and other instruments of the Board

Staff of the Board.

Transfer of services of the existing employees of the Mandal to the Board.

Location of Mandal.

Property and liabilities of the Board.

Duties of the Board.

the advancement of learning and dissemination of knowledge in such matters;

(b) to do all such other things as may be necessary for the discharge of its functions under this Act.

17. (1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purposes of carrying out its duties under this Act.

Powers of the Board.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may from time to time purchase or otherwise acquire, such documents, manuscripts books, articles, or things as may, in the opinion of the Board, be conducive for the fulfilment of the objectives/duties mentioned in sections 6 and 16 respectively.

CHAPTER IV

FINANCIAL ACCOUNTS, AUDIT AND REPORTS

18. For the purpose of enabling the Board to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as it considers necessary by way of grant, loan or otherwise.

Grants by Central Government to the Board.

19. (1) The Board shall maintain a Fund to which shall be credited,—

Fund of the Board.

(a) all money paid by the Central Government;

(b) such sums of money as the State Government may pay annually;

(c) all money received by way of donation, benefaction, bequest, subscription, contribution or transfer;

(d) all other money received by the Board in any other manner or from any other source.

(2) The Board may expend such sums as it thinks fit for performing its function under this Act.

(3) A sum of money not exceeding such amount as may be provided by regulations under this Act, may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934, or any other bank approved by the Central Government in this behalf, but any money in excess of that sum shall be deposited in the State Bank of India or with the agents of the State Bank of India or invested in such manner as may be approved by the Central Government.

Budget.

2 of 1934

20. (1) The Board shall, by such date in each year as may be specified by the Central Government, submit to it for approval, a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditures, and the sum which would be required from the Central Government during that financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for the next financial year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by the provisions in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

21. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet, in such form as may be specified, and in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him, in connection with such audit, shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) the Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board and the library.

(4) The accounts of the Board, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of the Parliament.

Returns and re-
ports.

22. (1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government, within such time as may be specified by the Central Government, a report giving true and full account of the activities of the Board during the previous financial year and an account of the activities likely to be undertaken during the current financial year.

(3) The report of the activities of the Board shall be laid before each House of the Parliament by the Central Government.

CHAPTER V

MISCELLANEOUS

Power of the
Central Gov-
ernment to is-
sue directions
to the Board.

23. (1) In the discharge of its functions under this Act, the Board shall be bound by such directions, on questions of policy, as the Central Government may give to it from time to time:

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government on a question of policy shall be final.

24. The Board may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, officer or employee of the Board specified in this behalf in that order.

Officers and
employees of
the Board to
be public serv-
ants.

25. All officers and employees of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of
action taken
under the Act.

26. No suit, prosecution or other legal proceeding shall lie against the Board or any member, officer or employee of the Board for anything which is, in good faith, done or intended to be done in pursuance of this act or of any rule or regulation made thereunder

Powers of the
Central Gov-
ernment to
make rules.

27. (1) The Central Government may, by notification in the official Gazette, make rules to give effect to the provisions of this act:

Provided that when the Board has been established, no such rule shall be made without consulting the Board.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, the

- members nominated under clauses (c) and (d) of sub-section (3) of section 4;
- (b) the travelling and other allowances payable to a member other than the Chairman and to a person associated with the Board under-section 10;
- (c) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;
- (d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board; and
- (e) any other matter which may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

28. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

Powers of the Board to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

- (a) the conditions and restrictions subject to which research materials, manuscripts and books in the Mandal may be used;
- (b) the manner in which, and the purposes for which, persons may be associated with the Board;
- (c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;
- (d) the maintenance of the minutes of meetings of the Board and the transmission of copies thereof to the Central Government;
- (e) the recruitment and conditions of service of officers and other employees of the Board;
- (f) the persons by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board;
- (g) the maximum amount that may be kept in the current account;
- (h) the maintenance of registers and accounts;
- (i) the compilation of catalogues and inventories of the manuscripts, books and such other articles and things in the library;
- (j) the steps to be taken for the preservation of the manuscripts, historical records, books and such other articles in the possession of the Mandal;
- (k) the general management of the Mandal;
- (l) the fees and other charges to be levied for the use of research materials, manuscripts and books in the library; and
- (m) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved and thereupon the regulation shall have effect accordingly but without prejudice to the exercise of the powers of the Board under sub-section (1) and (2).

STATEMENT OF OBJECTS AND REASONS

Bharat Itihas Samshodhak Mandal of Pune has been active in the field of historical researches for the last 80 years or more. During this period the Mandal has collected a vast amount of source materials pertaining to the history of the medieval period i.e. from 1300 to 1800 A.D. of India in general and the Deccan in particular. The collection includes 15,00,000 original documents in Marathi, Kannada and Persian languages consisting of correspondence, Sanads, judicial decisions, account books etc. and Records of important noble families, 30,000 manuscript books majority being in Sanskrit, Marathi and Persian languages written on cloth, palm-leaf, paper etc. The museum of the Mandal consist of 1200 miniature paintings, two thousand coins, inscriptions and over 100 arms, armour etc. The value and importance of this source materials is known throughout the scholarly world and has attracted scholars from U.K., U.S.A., U.S.S.R., Germany, Japan and other countries.

The financial resources at the disposal of the Mandal are totally inadequate in order to preserve the materials or to secure the services of experts. It is, therefore, necessary that the Mandal should get direct protection by Central Government by way of adequate financial and other resources. It is also necessary for that purpose to recognise the Mandal as an institute of national importance on the lines of Khudabaksh Oriental Library of Patna and the Saraswati Mandir Library at Tanjaure.

Hence this Bill.

V. N. GADGIL

FINANCIAL MEMORANDUM

Sub-clause (1) of clause (4) of the Bill provides for the Constitution of the Bharat Itihas Samshodhak Mandal Board which shall meet all its expenditure out of the Fund constituted under sub clause (1) of clause 19 of the Bill wherein all the moneys received from the Central Government under clause 18 of the Bill, State Government or from other source shall be credited.

The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is not possible to specify the non-recurring expenditure which will be involved. However, it is estimated that an amount of rupees fifteen lakhs is likely to be involved as a recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 27 and 28 empower the Central Government and the Board to frame rules and regulations respectively for carrying out the purposes of the Bill. As the rules will relate to matters of procedure and administrative details only, the delegation of legislative power is of normal character.

IX**BILL No. XXXV OF 1996**

A Bill to provide for the deterrent punishment for forcing a girl child into prostitution and for immoral traffic of any girl child and for procuring a girl child for prostitution or dedicating a girl child to an idol or temple and for proper rehabilitation of such hapless girl child and other welfare measures to be undertaken by the State and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Prostitution (Prevention, Rehabilitation and Welfare) Act, 1996.

Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires, —

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "girl child" denotes a female human being who is below the age of eighteen years;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act but defined in the Immoral Traffic (Prevention) Act, 1956 shall have the meaning respectively assigned to them in that Act.

Punishment for forcing a girl child for prostitution and similar other offences.

3. Notwithstanding anything contained in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 or any other law for the time being in force, whoever—

45 of 1860.
104 of 1956.

(a) forces a girl child to prostitution, notwithstanding the relation of such girl child with the accused, shall be punished with death;

(b) indulges in the immoral traffic of a girl child for the purposes of prostitution or for any unlawful and immoral purpose shall be punishable with life imprisonment and with fine which may extend to one lakh rupees;

(c) hires or otherwise obtains possession of a girl child prostitute for promiscuous sexual intercourse with her shall be punished with life imprisonment and also with fine which may extend to one lakh rupees.

Prohibition of dedication of a girl child to temple.

Penalty.

4. The dedication of a girl child to a temple or idol as a dancing girl, *dasi* or *Bhavin* is hereby prohibited.

5. Whoever contravenes the provisions of section 4 of this Act, notwithstanding that the person is a natural guardian of the girl child, shall be punishable with imprisonment which may extend to ten years and with fine which may extend to ten thousand rupees.

Appropriate Government to formulate rehabilitation and welfare measures for girl child prostitutes.

Central Government to provide funds.

Overriding effect.

Power to make rules.

6. The appropriate Government shall formulate rehabilitation and other welfare measures for such girl child prostitutes who may be saved from prostitution or who may be rendered out of prostitution after the commencement of this Act and the measures shall include free medical care, free education including vocational education and such other matters as may be prescribed.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for the purposes of this Act.

8. The Provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

9. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Child prostitution is rampant not only in our country but throughout the world and particularly in Asian and African countries. Since the girl child prostitutes fetch more money from the prospective clients, more and more adolescent girls are being forced into prostitution by antisocial elements, organised criminal gangs, brothel keepers, hoteliers and tour operators and in many cases even by their natural guardians. In most of the cases, the girls are lured into the flesh trade on one pretext or the other promising them a decent and comfortable lifestyle.

In many other cases, the girls are kidnapped and forced into prostitution. In some parts of our country, the young girls are dedicated to temples as *Devdasis* and they generally subsist on prostitution. Now with the outset of deadly AIDS, the lives of the girls child prostitutes are in constant danger. Apart from the danger of AIDS, they generally become the victim of other sexually transmitted diseases. In such an alarming situation the Central and State Governments have to take effective steps to control this menace by providing deterrent punishment. For those who force a girl child into prostitution, capital punishment is the only alternative so that a person must think twice before forcing a girl child into prostitution. Similarly, deterrent punishment is required for those who hire a girl child prostitute, girl child as prostitute or offer them as *dasi* in a temple to save the innocent girls not only from this cruel profession but also from dreaded diseases.

This Bill seeks to achieve the above objectives.

SAROJ KHAPARDE

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Central Government shall provide adequate funds for the purposes of the Bill. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India to the tune of fifty crores of rupees per annum as recurring expenditure.

A sum of rupees fifty crores may also involve as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

Bill No. XXXVI of 1996.

A Bill to provide for the rehabilitation and welfare measures to be undertaken by the Central Government and the State Governments for the infirm, old, handicapped, sick and uncared widows by establishing an Authority at the Centre as well as at the State levels to coordinate with the Government at the Centre and the States and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indigent, Neglected and Homeless Widows (Rehabilitation and Welfare) Act, 1996.

Short title
and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that state and in other cases, the Central Government;

(b) "Authority" means the Indigent, Neglected and Homeless Widows Welfare Authority established under section 3 of this Act;

(c) "*bhajan* chanting widow" means an old widow who earns her meagre livelihood by chanting *bhajans* at the temples;

(d) "homeless widow" means a widow who becomes homeless due to some or other reason;

(e) "indigent widow" means a poor widow either having dependent minor children or having no adult kin to look after her;

(f) "infirm widow" means a widow stricken with infirmity owing to old age, physical deformity, ailment, mental imbalance and who lives uncared for;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "widow" means a female whose husband has died after her legal marriage.

**Establishment
of Indigent,
Neglected and
Homeless Wid-
ows Welfare
Authority.**

3. (1) The Central Government shall, by notification in the Official Gazette, establish an Indigent, Neglected and Homeless Widows Welfare Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Nagpur in the State of Maharashtra.

(4) The Authority shall establish its branches in all the States and Union Territories in such manner as may be prescribed.

4. The Authority shall consist of

(a) a Chairman, who shall be the Minister-in-charge of the Union Ministry of Welfare, ex-officio;

(b) a Vice-Chairman, to be appointed by the Central Government;

(c) three members of Parliament of whom two shall be from the Lok Sabha and one from the Rajya Sabha to be nominated by the respective Presiding Officers of each House;

(d) two members representing the Union Ministry of Human Resource Development to be appointed by the Central Government;

(e) not more than five members to be appointed by the Central Government in consultation with the Government of States, by rotation in alphabetical order, to represent the Governments of the States;

(f) four members to be appointed by the Central Government from amongst the Non Governmental Organisations working for the welfare of widows.

5. The Authority may appoint such number of officers and employees as may be necessary for the efficient functioning of the Authority

**Officers and
employees of
the Authority.**

**Funds to be
provided by
the Central
Government to
the Authority.**

6. The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the purposes of this Act to the Authority.

**Widows
Welfare Fund.**

7. The Authority shall have a Welfare Fund for the widows to be called Widows Welfare Fund to which shall be credited all receipts from the Central Government, the State Governments and other institutions, both public and private, and the individuals for the welfare of indigent, neglected and homeless widows and for their rehabilitation.

8. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the Authority to promote and provide, by such measures as it thinks fit, rehabilitation and welfare of indigent, infirm, neglected, homeless and *bhajan* chanting widows of the country.

Functions of the Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Authority shall—

- (a) maintain districtwise register containing the names of such widows who are in need of assistance from the Authority, in such manner as may be prescribed;
- (b) give wide publicity through the electronic and print media about the rehabilitation packages to be given by the State to the needy widows; and
- (c) perform such other functions not inconsistent with the provisions of this Act, as may be assigned to it by the appropriate Government from time to time.

9. On the recommendation of the Authority, the appropriate Government shall provide the widows registered under this Act,—

- (a) an amount not exceeding rupees one thousand five hundred—in case the widow is infirm or is having one or more dependent children or rupees one thousand per month—in case she has no dependent child, as subsistence allowance;
- (b) residential accommodation free of cost to every widow having no such accommodation;
- (c) free education including technical education to dependent children;
- (d) such other financial assistance if the widow is indigent and neglected as may be prescribed;
- (e) gainful employment;
- (f) free vocational education where-ever necessary;
- (g) such other facilities as may be necessary for her rehabilitation, welfare, proper development and maintenance of a respected life in the society:

Provided that if a widow covered under this Act gets gainful employment or remarries, all the facilities provided to her and her dependent children shall be withdrawn from the date she gets employment or remarries, as the case may be.

Subsistence allowance and other facilities to the widows.

10. The appropriate Government, in coordination with the Authority, shall undertake a census of the *bhajan* chanting widows in the country and provide the facilities to such widows as prescribed under section 9 of this Act.

Census of *bhajan* chanting widows.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the widows.

Overriding effect of the Act.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There are a large number of widows in our country who live a miserable life and majority of them have no means to support themselves and their dependent children. For their survival they work as housemaids, do all sorts of household chores such as cleaning utensils, washing clothes, cleaning, dusting etc. for meagre remuneration. This too, they can do only if their physical condition allows them to do so. But many of them are not so lucky ones. They are stricken with infirmity due to old age or physical deformity or serious and prolonged ailment and in many cases they are mentally deranged. Such hapless widows survive on alms given to them while begging in the streets. Many young widows are forced into prostitution and many join this profession to avoid starvation. A good number of widows are forced to leave their houses after the death of their husbands and they generally proceed to Mathura, Brindavan and other places to find solace in the temples. There they earn a rupee or two after chanting *bhajans* for the whole day or so and in many cases they are sexually exploited by the agents of such religious places. In many cases the widows are disowned by their inlaws as well as by their parents and are left to fend for themselves. Their position becomes more vulnerable if they have dependent children to support who are also driven out of the homes with the widows. The position of widows is more serious in the rural areas. Not only they are maltreated but they are considered as bad women and not allowed to show their faces during any function in the household. Being illiterate they remain the worst exploited lot physically, mentally and socially.

Ours is a welfare State and it is the duty of the State to come forward for the rehabilitation of such hapless widows and implement various welfare measures for this purpose. For this an Authority may be established to coordinate with the Central and State Governments for the welfare of widows so that they do not have to opt for begging or prostitution.

Hence this Bill,

SAROJ KHAPARDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Indigent, Neglected and Homeless Widows Welfare Authority. Clause 9 provides for the subsistence allowance and other facilities for the widows. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two hundred crores may be involved as recurring expenditure per annum.

A sum of rupees one hundred crores may also be involved as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XI**BILL NO. XLIII OF 1996**

A Bill to provide for the compulsory and free education including vocational and technical education, reservation of jobs in Government and other establishments and other welfare measures to be undertaken by the Central and State Governments for the blind and physically handicapped girls and women in the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This act may be called the Blind and Handicapped Women and Girls (Education, Employment and other Welfare Measures) Act, 1996.

Short title
and extent

5 (2) it extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;
- (b) "blind" means a person having total absence of sight or vision;
- (c) "Board of Experts" means a group of persons registered under the Indian Medical Council Act, 1956.
- (d) "girl" means a female human being who has not attained the age of eighteen years;
- (e) "employer" means any person, a Government organisation or otherwise, who employs fifty or more persons to do any work in an establishment;
- (f) "establishment" means any premise, office, shop, showroom, factory or any such other place where any industrial work trade or business is carried;
- (g) "physically handicapped" means any girl or woman having physical, mental or any other disability leading to substantial handicap in her normal daily routine and to employment and incapacitating her normal life;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "woman" means any female human being who has attained the age of eighteen years or more.

Separate schools for blind and physically handicapped girls

3. (1) The appropriate Government shall, establish such number of separate and exclusive schools for the blind and physically handicapped girls as it may deem necessary for imparting proper education including vocational, technical and medical education to such girls residing within its territorial jurisdiction.

(2) Every blind and physically handicapped girl admitted in a school established under sub-section (1) shall be provided free of cost,—

- (a) books, notebooks and other stationery materials;
- (b) uniforms, shoes and such other items;
- (c) transport facilities;
- (d) medical facilities;
- (e) hostel facilities where-ever necessary; and
- (f) such other facilities as may be prescribed.

Employers to reserve vacancies for blind and physically handicapped women.

4. Notwithstanding anything contained in any other law for the time being in force, every employer shall reserve not less than three percent of the vacancies for the blind women registered under this Act.

Separate Employment Exchanges for the blind and the physically handicapped women.

5. (1) Notwithstanding anything in the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, the appropriate Government shall establish such number of separate and exclusive employment exchanges for blind and physically handicapped women as it may deem necessary.

(2) Any blind or physically handicapped woman having the prescribed qualifications and desiring to get herself registered with the special employment exchange shall make an application, in such form and containing such particulars, as may be prescribed, to the special employment exchange established under sub-section (1) within whose jurisdiction she resides.

102 of 1956.

31 of 1959.

6. Every employer shall, before filling up any vacancy in any establishment, shall notify that vacancy to the special employment exchange established under section 5 within whose jurisdiction that establishment is situated.

Employers to notify vacancies to the special employment exchanges.

7. (1) On receipt of the notification of the vacancies under sub-section (6), the special employment exchanges shall furnish a list of blind and physically handicapped women registered with it to the employer who has notified the vacancies and thereupon the employer shall, as soon as may be, fill up the percentage of vacancies prescribed under this Act, by appointing such number of blind or physically handicapped women as he considers suitable and inform in writing of such appointments to the concerned special employment exchange:

Special employment exchanges to furnish list of blind and physically handicapped women to employers.

Provided that no blind woman shall be rejected a job if a Board of Experts certifies that she can do the job with the help of modern technological devices and in that case it shall be the duty of the appropriate Government to provide such aids to the blind woman to make use of the device in her job.

(2) where any special employment exchange has no suitable blind or physically handicapped woman candidate for a specific job, it shall intimate the fact to other such employment exchanges to make available such candidates, if they have such candidates registered with them.

8. Where any vacancies in an establishment reserved under section 4 can not be filled up either due to non availability of suitable woman candidates or for any other sufficient reason, such vacancies shall be carried forward to the succeeding years upto the end of the fifth year.

Vacancies to be carried forward.

9. (1) Every employer shall maintain such records, giving such particulars of the blind and physically handicapped women employees working in his establishment in such manner as may be prescribed.

Employers to maintain records of blind and physically handicapped women employees.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in this behalf by the appropriate Government.

Unemployment allowance

10. The appropriate Government shall pay unemployment allowance to every blind and physically handicapped woman registered with any special employment exchange established under section 5 at such rates as may be prescribed till such time she is given an employment:

Provided that the unemployment allowance payable under this Act shall not be less than one thousand rupees per month.

Penalty.

11. (1) Any employer, who contravenes the provisions of sections 4, 8 and 9 of this Act shall be liable for punishment with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

(2) Any employer who obstructs or causes obstruction to any officer authorised to inspect the records under sub-section (2) of section 9 shall be punishable with fine which may extend to fifty thousand rupees.

12. Where an offence, under this Act, has been committed by a company or Government establishment, as the case may be, the incharge of such company or establishment at the time the offence was committed, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies and Government establishments.

Provided that nothing in this section shall render any such person liable to any penalty under this Act, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence:

Act not to apply in certain employments.

- 13.** This Act shall not apply in relation to,—
(a) any employment in agriculture; and
(b) any employment in domestic service.

Overriding effect of the Act.

14. The provisions of this Act and of rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any other instrument having effect by virtue of any law other than this Act, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Blindness is the worst disability for the humans. This is more so far the girls and women who are not only bounded by darkness but also become vulnerable in the society. To begin with, a daughter is the most unwanted in the family but if she is blind, her position in the household can be well imagined. Blind girls have different problems than the blind boys. Right from the school to the place of work they have to suffer. There are no separate schools for the blind girls. Most of the blind schools are for the boys only. So it is very difficult to admit a blind girl in a school. Similar is the fate of physically handicapped girls and women. Though talented they do not get suitable employment and generally they live in agony and distress.

Our state being a welfare State owes responsibility towards blind and physically handicapped girls and women. They should be given adequate education and job opportunities to stand on their own so that they are not forced to face unemployment, hunger and distress.

Hence this Bill.

SAROJ KHAPARDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for separate schools for blind and physically handicapped girls. Clause 5 provides for the establishment of separate employment exchanges for blind and physically handicapped women. Clause 10 provides for the payment of unemployment allowance to unemployed women. The Bill, if enacted, and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crores may be involved as recurring expenditure per annum.

A sum of rupees one hundred twenty five crores may also involve as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V. S. RAMA DEVI,
Secretary-General.

